IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Dr.Vinod Shah Vs. State

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S.B. CRIMINAL MISC.PETITION NO.745/2005
under Section 482 Cr.P.C.

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Date of Order:- 29/8/2006.

P R E S E N T

HON'BLE MR.JUSTICE HARBANS LAL

Mr. Suresh Sahni for the accused-petitioner.
Mr. Arun Sharma P.P. for the State.

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BY THE COURT:-

This petition under Section 482 Cr.P.C. seeks quashing of the order dated 17/7/2003 passed by the learned Additional Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate No.6, Jaipur City, Jaipur in Criminal Case No.940/2003.

2) I have heard learned counsel for petitioner Dr.Vinod Shah, learned Public Prosecutor for the State and have perused the impugned-order as well as the record.

3) A bare perusal of the police papers placed before me, makes it abundantly clear that the alleged occurrence has taken place in the parking place of the premises of the SMS Hospital, Jaipur which is not a public way.

Section 279 of the Indian Penal Code, 1872 reads as under:-

> **"279. Rash driving or riding on a public way.-**Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

4) In order to bring home the offence under Section 279 IPC to the accused it is essential to show that the accused was driving any vehicle or riding it on any public way in a manner so rash or negligent as to endangner the human life, or to be likely to cause hurt or injury to any other person.

5) Admittedly, the accused-petitioner was not driving his car on any public way. There is also no evidence on record to show that he was so rash and negligent as to endanger human life or was likely to cause hurt or injury to any other person. It is

evident from the statements of the witnesses that the car slightly touched the Zypsy and none of the vehicles was damaged.

6) In this view of the matter, therefore, the impugned-order dated 17/7/2003 taking cognizance cannot be legally sustained and deserves to be quashed.

Accordingly, this petition under Section 482 Cr.P.C. is allowed and the impugned-order dated 17/7/2003 passed by the learned Additional Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate No.6, Jaipur City, Jaipur in Criminal Case No.940/2003 is hereby quashed and set-aside.

(HARBANS LAL), J.

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